

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DARNELL DOSS : CIVIL ACTION
v. :
LANCASTER CITY BUREAU OF POLICE, et al. : NO. 11-0178

M E M O R A N D U M

GOLDBERG, J.

JUNE

22nd, 2011

Plaintiff, an inmate, has filed a pro se 42 U.S.C. § 1983 civil rights action against the Lancaster City Bureau of Police, a police detective, the Lancaster County District Attorney's Office, two assistant district attorneys, the Lancaster County Public Defender's Office, a public defender, three private attorneys, the Lancaster County Magistrate District Court and the Lancaster County Court of Common Pleas. He is alleging that he is a victim of a malicious prosecution.

For the following reasons, all of plaintiff's claims, except the claims against the Lancaster City Bureau of Police and Sergeant/Detective John Burkhart, will be dismissed pursuant to 28 U.S.C. § 1915(e).

A. Prosecutorial Immunity

The Supreme Court has held that prosecutors enjoy absolute immunity from liability for money damages under § 1983 for any actions taken within the scope of their duties as prosecutors. Imbler v. Pachtman, 424 U.S. 409, 431 (1976). There is nothing in this complaint that suggests that the Lancaster County District Attorney's Office, Assistant District Attorney Karen Mansfield or Assistant District Attorney Christopher Larsen acted

outside the scope of their prosecutorial duties. Therefore, the claims against them will be dismissed.

B. Defense Attorneys

In order to bring suit under 42 U.S.C. § 1983, plaintiff must allege that a person acting under color of state law deprived him of his constitutional rights. West v. Atkins, 487 U.S. 42 (1988). A defense attorney, whether court-appointed or privately retained, represents only his client, and not the state, and cannot be sued under § 1983. Polk County v. Dodson, 454 U.S. 312 (1981). Therefore, the Lancaster County Public Defender's Office, Public Defender Peter Kinsley, Attorney Mark Walmer, Attorney Barry Goldman, and Attorney Douglas Cody may not be sued in this action, and plaintiff's claims against them must be dismissed. Although plaintiff alleges that these defendants were involved in a conspiracy with the other defendants, these bald assertions are insufficient to support a conspiracy based claim against these defendants in this action. See Young v. Kann, 926 F.2d 1396, 1405 n.16 (3d Cir. 1991) (conspiracy claims ~~may be dismissed as legally frivolous where claims are not based on fact, but rather on plaintiff's suspicion and speculation).~~

C. Eleventh Amendment Immunity

The Lancaster County Court of Common Pleas and the Lancaster County Magistrate District Court, as state entities, are entitled to Eleventh Amendment immunity. See Benn v. First Judicial Dist. Of Pa., 426 F.3d 233 (3d Cir. 2005). Therefore, the claims against these defendants will also be dismissed.